BOMBAY ACT No. XV OF 1951.[1]

[THE BOMBAY SPECIAL SUITS AND PROCEEDINGS VALIDATING ACT, 1951.]

[*24th April 1951*]

An Act to validate special jurisdiction suits and proceedings in the State of Bombay.

WHEREAS by Government Notification, Home Department, No. 2346/5, dated the 20th January 1950, the State Government invested the Bombay City Civil Court with jurisdiction to receive, try and dispose of certain suits and proceedings of a civil nature not exceeding twenty-five thousand rupees in value and arising in Greater Bombay;

WHEREAS in Original Civil Jurisdiction Suit No. 240 of 1950 the Bombay High Court held that the said notification was invalid and of no effect;

WHEREAS in Civil Appeal No. 10 of 1950 in its civil appellate jurisdiction the Supreme Court of India set aside the said decision of the Bombay High Court and held that the said notification was *intra vires* and legal;

WHEREAS during the interval between the date of the said notification and the decision of the Supreme Court certain suits and proceedings of a civil nature have been instituted in the Bombay High Court and some of them have been tried and disposed of;

AND WHEREAS it is necessary and expedient to validate the decrees and orders which have been passed in the said suits and proceedings and to provide for the return and presentation of those which have been dismissed or are pending to the City Court;

It is hereby enacted as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Bombay Special Suits and Proceedings Validating Act, 1951.

(*2*) It shall come into force on such date as the State Government may by notification in the *Official Gazette* appoint in this behalf.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*1*) "Special jurisdiction suit or proceeding" means a suit or proceeding of a civil nature exceeding ten thousand rupees, but not exceeding twenty-five thousand rupees in value and arising in Greater Bombay, but does not include any suit or proceeding specified in clauses (*a*) to (*d*) of section 3 of the principal Act.

(*2*) "Principal Act" means the Bombay City Civil Court Act, 1948. Bom. XL of 1948.

(*3*) "Jurisdiction notification" means Government Notification (Home Department), No. 2346/5, dated the 20th January 1950, issued by the State Government in exercise of the powers conferred by section 4 of the principal Act and published in the *Official Gazette* on 20th January 1950.

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1951, Part V, pp. 100-101.

(*4*) "Supreme Court decision" means the decision of the Supreme Court in its Civil Appellate jurisdiction in Civil Appeal No. 10 of 1950—the State of Bombay *vs.* Narottamdas Jethabhai and A. P. Phillips.

(*5*) Words and expressions not defined but used in this Act shall have the meaning assigned to them in the principal Act.

Decrees and orders to be deemed to be valid.

3. (*1*) Decrees and orders passed by the High Court in its Original as well as Appellate jurisdiction in special jurisdiction suits and proceedings instituted in the High Court on or after the date of the jurisdiction notification shall, notwithstanding anything contained in the principal Act, be deemed to have been validly passed by the High Court and shall not be deemed to be invalid merely on the ground that the suit or proceeding in which the said decree or order was passed was received, tried or disposed of by the High Court in contravention of sections 4 and 12 of the principal Act.

(*2*) All appeals and execution proceedings arising out of such decrees or orders shall be received, tried or disposed of by such Court, as if the suits or proceedings in which such decrees or orders were passed were validly received by the High Court, notwithstanding anything contained in the principal Act.

Pending and dismissed suits and proceedings.

4. (*1*) All special jurisdiction suits or proceedings instituted in the High Court on or after the date of the jurisdiction notification and pending in the said Court at the commencement of this Act shall, on application by a party to such suit or proceeding, made within three months from the date of the commencement of this Act, be, notwithstanding anything contained in any law for the time being in force, returned by the said Court for being filed in the City Court. If no such application is made within the said period of three months in respect of any such suit or proceeding, such suit or proceeding shall stand dismissed.

(*2*) All such special jurisdiction suits or proceedings dismissed by the High Court, after the Supreme Court decision but before the commencement of this Act, merely on the ground that the High Court was not competent to receive, try and dispose of them under sections 4 and 12 of the principal Act, may, within the period of three months from the date of the commencement of this Act, or within the period of limitation applicable to such suit or proceeding under the provisions of the Indian Limitation Act, 1908, whichever period is longer, be filed in the City Court, notwithstanding the fact that they were dismissed by the High Court. IX of 1908.

(*3*) All special jurisdiction suits and proceedings which stand dismissed under sub-section (*1*) on the ground that no application was made for their return for being filed in the City Court within the time specified therein may be filed in the City Court within the period of limitation applicable to such suit or proceeding under the Indian Limitation Act, 1908. IX of 1908.

(*4*) Nothing in section 13 of the principal Act shall apply to the suits or proceedings returned for being filed in the City Court under sub-section (*1*).

Allowance of fees paid in High Court.

5. When any suit or proceeding referred to in section 4 is filed in the City Court, in the calculation of the institution fee leviable in respect of such suit or proceeding, credit shall be given by the City Court for any court-fee levied in the High Court and costs incurred in the said Court till the date of its return for being filed in the City Court or of its dismissal, as the case may be, shall be assessed in the manner prescribed by rules made under sub-section (*2*) of section 18 of the principal Act as if such suit or proceeding was transferred to the City Court under the said section.

Exclusion of time for suits and proceedings filed in City Court.

6. In computing the period of limitation in respect of any suit or proceeding referred to in sub-section (*1*) of section 4 and filed in the City Court, the period from the date on which the said suit or proceeding was received by the High Court until the date on which the said suit or proceeding was returned by the High Court for being filed in the City Court, shall be excluded.

Stage from which pending suits or proceedings to be heard.

7. Suits or proceedings returned for being filed in the City Court under sub-section (*1*) of section 4 shall, when filed in the City Court, be tried and disposed of from the stage up to which they were heard by the High Court and the record of such suit or proceeding up to the said stage of trial in the High Court shall be and form part of the record of such suit or proceeding in the City Court, as if the said suit or proceeding was originally received by the City Court.

Removal of difficulties.

8. If any difficulty arises in the trial or disposal of any suit or proceeding referred to in the foregoing provisions, in the execution of decrees or orders or the hearing or disposal of appeals arising therefrom, the High Court may pass such orders as it may deem necessary or expedient for the removal of such difficulty.